

Assembly Bill No. 1368

Passed the Assembly August 31, 2006

Chief Clerk of the Assembly

Passed the Senate August 30, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 4663 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1368, Karnette. Workers' compensation: apportionment: presumptions.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law provides that, in the case of certain state and local public safety members, the term "injury" includes hernia, heart trouble, and pneumonia that developed or manifested itself during a period while the person is in that service. Existing law further establishes a disputable presumption in this regard and prohibits these medical conditions from being attributed to any disease existing prior to the development or manifestation of that medical condition.

Existing law requires any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury to address the issue of causation of the permanent disability.

This bill would exempt the above medical conditions for certain public safety members and employees from the application of this requirement.

The people of the State of California do enact as follows:

SECTION 1. Section 4663 of the Labor Code is amended to read:

4663. (a) Apportionment of permanent disability shall be based on causation.

(b) Any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall in that report address the issue of causation of the permanent disability.

(c) In order for a physician's report to be considered complete on the issue of permanent disability, the report must include an apportionment determination. A physician shall make an apportionment determination by finding what approximate percentage of the permanent disability was caused by the direct result of injury arising out of and occurring in the course of employment and what approximate percentage of the permanent disability was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. If the physician is unable to include an apportionment determination in his or her report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.

(d) An employee who claims an industrial injury shall, upon request, disclose all previous permanent disabilities or physical impairments.

(e) Subdivisions (a), (b), and (c) shall not apply to injuries or illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10, 3212.11, 3212.12, 3213, and 3213.2.

SEC. 2. It is the intent of the Legislature that this act be construed as declaratory of existing law.

Approved _____, 2006

Governor